bury v. *Crossman,* 10 Hun 389. In a case, in which the facts were identical with those in the principal case, it was held that the federal "hours of service" law, during the period before it went into operation, did not supersede a State law on the same subject. The court said:—"We do not see how an act which does not by its own terms become a rule of conduct until a future time, can be said to displace another existing rule on the same subject during the interval between the time of its enactment and the time it becomes operative." *State* v. *Northern Pac. R. Co.,* 36 Mont. 582, 93 Pac. 945. When the principal case was tried in the Supreme Court of Washington that court said that when a law "goes into effect for one purpose it goes into effect for all purposes. So with this statute, it can not be a law between the day of its passage and the day it is made to go into effect, for the sole purpose of superseding the State statute, and not a law for any other purpose." *State* v. *Northern Pac. Ry. Co.,* 53 Wash. 673, 102 Pac. 876.

The effect of the decision in the principal case is to free the railroads from the restraint of any statute whatsoever on this subject during the period between the approval of such an act and the date on which it is to become operative. It is perhaps worthy of notice that in all those cases wherein the decisions are contrary to that in the principal case, the State statute which was sought to be enforced had been enacted before the enactment of the federal statute; while in the cases wherein the decisions agree with the holding in the principal case, the State statute had been enacted subsequent to the enactment of the federal act. The facts of the principal case place it in the latter class. This difference in the facts, although not mentioned as a controlling influence in any of the cases, may have been very influential in causing the courts to reach diverse decisions. P. P. F.

ADVERSE POSSESSION BY AN ALIEN AND THE EFFECT OF STATUTE REMOVING AN ALIEN'S DISABILITY TO INHERIT.—The question whether an alien under disability to inherit at the time of taking possession may acquire title to land by adverse possession was recently passed upon by the Supreme Court of the State of Iowa in the case of *Hanson* v. *Gallagher* (Iowa 1912), 134 N. W. 421. Plaintiff claimed title by adverse possession. He and his brother Patrick came to the United States from Ireland about 1854. Patrick acquired title to the land in controversy by entry under the United States land laws and secured a proper certificate of entry. He died intestate and unmarried in 1859, leaving surviving him plaintiff, his sole relative in the United States, and his father, mother and other sisters and brothers, non-resident aliens. Plaintiff took possession of the premises soon after the death of his brother; procured the issuance to himself of a patent therefor, upon surrender of the certificate of entry which had come into his possession; improved and cultivated the land; paid the taxes thereon, and remained in undisturbed possession for over 20 years. Plaintiff was and is an alien. Prior to 1868 a non-resident alien could not inherit lands in Iowa, but, under an act passed that year, made retroactive in operation, aliens were made capable to inherit. The

mother died after plaintiff had been in possession over ten years. Defendants, alien brothers and sisters of plaintiff, contended that plaintiff's possession, in its inception, was as an heir and therefore not hostile to the defendant co-heirs who were tenants in common with him. The court held that plaintiff was not an heir at the time of entry; that the effect of the enabling act was immaterial because at the time of its enactment plaintiff had been in possession asserting for himself the rights incident to ownership; and that plaintiff was entitled to a decree quieting title in him. The court conceded that plaintiff had no color of title when he entered, but stated that in Iowa an unequivocal claim to the property and possession as against the whole world is sufficient basis for the running of the statute of limitations. "Claim of title is sufficient under the Iowa statute requiring that possession shall be taken and held under a hostile claim." *Hamilton* v. *Wright,* 30 Iowa 480; *Colvin* v. *McCune,* 39 Iowa 502; *Montgomery Co.* v. *Severson,* 64 Iowa 326, 17 N. W. 197, 20 N. W. 458, but in the case last cited, although there was no paper title, so called, still the person claiming adversely had a substantial equity in the land. Inasmuch as the plaintiff in the principal case immediately procured the issuance to him of a patent for the lands, there is authority holding such would confer "color of title" upon him, were color of title essential to invoke the statute of limitations in that State. *Buckley* v. *Taggart,* 62 Ind. 236; *Dean* v. *Goddard,* 55 Minn. 290, 56 N. W. 1060; *Hawkins* v. *Richmond Cedar Works,* 122 N. C. 87, 30 S. E. 13. "If one in possession take a deed in fee from another who has no right, that is a colorable title, which apparently authorizes the subsequent possession." *Rogers* v. *Mabe,* 15 N. C. 195; *Jackson* v. *Thomas,* 16 Johns. 293.

There are apparently but few cases involving the right of an alien claiming by adverse possession. While these cases, with one exception, uphold the claim of the alien, yet it is interesting to note that they are not all agreed as to the nature and extent of such right. The title or right acquired by adverse possession for the statutory period is in the nature of a title by purchase, rather than a title acquired by operation of law; and as an alien at common law, though not permitted to take lands by operation of law, can take by purchase and hold against everyone but the State. (*Burrow* v. *Burrow,* 98 Iowa 400, 67 N. W. 287; *Omnium Investment Co.* v. *North American Trust Co.,* 65 Kan. 50, 68 Pac. 1089); such adverse possession by an alien will bar the recovery by the original owner. *Piper* v. *Richardson* (1845), 9 Metc. 155; *Price* v. *Greer* (1909), 89 Ark. 300, 116 S. W. 676. In *Overing* v. *Russell* (1860), 32 Barb. 265, the court declined to pass upon the question whether *title* became vested in the alien and expressly held that the real owner was barred by the statute of limitations. However, in *Leary* v. *Leary* (1874), 50 How. Pr. 122, the court, without any reference to *Overing* v. *Russell,* held that although a person had been in possession adversely for the statutory period, if during five years of that time he was an alien and incapable of holding land, the possession did not ripen into title. The court did not mention the statute of limitations as constituting a bar in favor of the alien. The report does not disclose that the statute was specially pleaded. It does show, however, that the alien claimed to be the *owner* of the land

by virtue of such possession. The court, in *Piper* v. *Richardson, supra,* held that by such possession an alien might acquire an indefeasible title against everyone, including the State; that the right of the State was barred by the statute of limitations and that it followed, as a result, that the alien acquired a valid title. The reasoning of the court finds support in cases involving adverse possession by persons not aliens. Thus in *Dean* v. *Goddard, supra,* the court held a valid title in fee was acquired by adverse possession for the statutory period. "The legal effect not only bars the remedy of the owner of the paper title, but divests his estate and vests it in the party holding adversely. * * * To say that the statutes * * * only bar the remedy, as some authorities do, is only to leave the fee in the owner of the paper title; * * * without a remedy. We think it better and more logical to hold that the occupier of premises by adverse possession acquires title." See also *Campbell* v. *Holt,* 115 U. S. 620, 623. It is worthy of note that in *Baker* v. *Oakwood* (1890), 123 N. Y. 16, 25 N. E. 312, not involving adverse possession by aliens, the court held the statute of limitations not only cut off the remedy, but also vested title. The court said: "The idea that title to property can survive the loss of every remedy * * * would seem to have but small support in logic or reason." In *Price* v. *Greer, supra,* the court stated that under a statute providing that aliens may take lands either by purchase, will or descent, a non-resident alien could establish *title* to the land by virtue of the statute of limitations. The court held that investiture of title by limitations is not by operation of law; that the statute of limitations raises a conclusive presumption in favor of the possessor of the land. In *Scottish American Mortgage Co.* v. *Butler* (Miss. 1911), 54 South. 666, under a statute providing that non-resident aliens shall not acquire or hold lands, except in certain instances and that all lands held contrary to its provisions shall be subject to escheat to the State, it was held that it was not the purpose of the legislature to render absolutely void titles acquired and held by non-resident aliens in violation of its terms, but they should be, as at common law, only voidable at the instance of the State. The court further held the owner of land was barred of right to a recovery by the adverse possession of an alien under claim of title for the statutory period; that title by adverse possession is not a title by operation of law. "It is title by purchase." See also *Bunckley* v. *Scottish American Mortgage Co.* (1911), 185 Fed. 783. G. E. B.

THE RESCISSION OF A PRE-CORPORATE CONTRACT ON THE GROUND OF PROMOTER'S FRAUD.—Cases arising out of promoters' frauds are numerous, and they present situations both varied and complex. They have been none too well classified by writers on corporation law. One recognized line of cleavage, however, separates those in which the parties base their claims upon some pre-corporate contract or relation from those in which the corporate relation itself is primarily and necessarily involved. See ALGER'S LAW OF PROMOTERS, § 123 *et seq.;* 1 MORAWETZ PRIV. CORP., Ed. 2, § 293. Within the first class such cases as *Brewster* v. *Hatch,* 122 N. Y. 349; *Short* v. *Stevenson,* 63 Pa.